

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

WP(C).No. 15788 of 2006(D)

PETITIONER:

**1. ANTONY DEVASSY, ATOKKARAN HOUSE,
V/323/1. ARISTO ROAD, THRISSUR.**

**2. JOSE ATTOKKARA, ATTOKKARAN HOUSE,
PUDUKKAD.**

**BY ADV. SRI.LAL GEORGE
SRI.ANIMON A. JOHN**

RESPONDENTS:

**1. THE PROJECT DIRECTOR AND GENERAL MANAGER
(TECH), NATIONAL HIGHWAY AUTHORITY OF INDIAN,
THUSHARA BINDU, NO. 337, CHANDRA NAGAR,
EXTENSION, NARIKKODE, PALAKKAD 678 007.**

**2. THE COMPETENT AUTHORITY, SPECIAL LAND
ACQUISITION OFFICE, NATIONAL HIGHWAY AUTHORITY OF
INDIA, NATIONAL HIGH WAY COMPLEX, CHEMPUKKAVU,
THRISSUR.**

**3. THE UNION OF INDIA,
REPRESENTED BY ITS SECRETARY, MINISTRY OF SURFACE
TRANSPORT, NEW DELHI.**

**BY ADV. SRI.ALEX VARGHESE, CGC
SRI.THOMAS ANTONY**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 17/08/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

K. PADMANABHAN NAIR, J.

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W.P(C) NO. 15788 OF 2006

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Dated this the 17th day of August, 2007

J U D G M E N T

Petitioners are owners of 36 cents of land comprised in Sy. No.1740 of Panachery Village. According to them their grand father constructed a church in the property in the year 1928 after obtaining permission from the Diwan of Cochin. It was averred that the said church was catering the religious needs of the local people. In the Writ Petition itself it is admitted that because of the developments in the area another church by name St.Joseph was also established to cater the needs of the Christians and the said church is considered as the Parish church. According to the petitioners since properties sought to be acquired from them is a church, it is to be exempted. The main prayer in the Writ Petition is to issue a direction to the respondents to exclude the property of the petitioners.

2. The Project Director and General Manager (Tech.), National Highway Authority of India, first respondent in the Writ Petition, has filed a counter affidavit. It was contended

that it was the private property of the petitioners and it is admitted by the petitioners themselves that it is not used as a place of worship. It was contended that in fact there is no church and the petitioners are exhibiting a board in front of the temporary shed so as to make it appear as a place of worship and get exemption from acquisition. It was also contended that other side of the road is forest area and it the same cannot be disturbed in view of the orders of this Court and Apex Court. It was further contended that petitioners have not filed any objection before the competent authorities under the National Highways Act, 1956. First respondent has also produced the norms. One of the clauses in the norms dated 19.4.2004 is regarding structures. It is stated that wherever possible attempt may be made to avoid places of worship, burial ground, etc., by re-alignment.

3. Petitioners have filed a reply affidavit also. According to the petitioners, first petitioner has filed Exhibit P4 representation before the first respondent. Learned Government Pleader denied the receipt of any such representation. It is stated that the first respondent has not

received any representation.

4. Considering all aspects of the matter, it is only just and proper to give one more opportunity to the petitioners to file a fresh representation before the Project Director and General Manager (Tech.), National Highway Authority of India, Palakkad, first respondent in the Writ Petition, within two weeks from the date of receipt of a copy of this judgment. If such a representation is received, the the first respondent shall consider and dispose of the same in accordance with law, as especially as possible, at any rate, within two months from the date of receipt of the representation.

5. Writ Petition is disposed of as above.

Interlocutory Application No.12962 of 2006 shall stand closed.

K. PADMANABHAN NAIR, JUDGE.

K. PADMANABHAN NAIR, J.

W.P(C) NO. 15788 OF 2006

J U D G M E N T

17TH AUGUST, 2007